

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, FEBRUARY 28, 1995
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Golding at 2:13 p.m. The meeting was recessed by Mayor Golding at 2:35 p.m. to convene the Housing Authority. The meeting was reconvened by Mayor Golding at 2:36 p.m. with Council Member Mathis not present. Mayor Golding recessed the meeting at 2:45 p.m. to reconvene the Housing Authority. Mayor Golding reconvened the meeting at 3:39 p.m. with Council Member Mathis not present. Mayor Golding adjourned the meeting at 3:40 p.m. to meet immediately in Closed Session in the twelfth floor conference room to discuss pending and potential litigation and for purposes of Meet and Confer.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Golding-Present
- (1) Council Member Mathis-excused by R-285522
(represented City in Washington, D.C., on
Clean Water Program)
- (2) Council Member Harvey-present
- (3) Council Member Kehoe-present
- (4) Council Member Stevens-present
- (5) Council Member Warden-present
- (6) Council Member Stallings-present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present
- Clerk-Abdelnour (mp)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Abdelnour called the roll:

- (M) Mayor Golding-present
- (1) Council Member Mathis-not present
- (2) Council Member Harvey-present
- (3) Council Member Kehoe-present
- (4) Council Member Stevens-present
- (5) Council Member Warden-present
- (6) Council Member Stallings-not present
- (7) Council Member McCarty-present
- (8) Council Member Vargas-present

PUBLIC COMMENT:

ITEM-PC-1:

REFERRED TO INTERGOVERNMENTAL RELATIONS DEPARTMENT.
Comments by Don Stillwell regarding debt-free money and asking if the City is going to take a stand on the sovereignty resolution passed by the U.S. Conference of Mayors. Mr. Stillwell provided five video copies of the Iwo Jima proclamation which was presented at the City Council meeting on Monday, February 27, 1995.

Mr. Stillwell also commented on IRS's claim that a man owes them \$850,000.00 and that a letter to this person from IRS claims that they can confiscate his money under Section 6331, which Section was transferred to the Bureau of Alcohol, Tobacco and Firearms.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A020-049.)

ITEM-PC-2

Comments by Atif Hakim, coordinator with Community Regeneration Project, regarding his having been selected by the CRP to be their candidate for the Fourth District Council seat. He also presented their poor people's platform.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A050-074.)

ITEM-PC-3:

Comments by David Bruce Thompson on government's Midas touch turning into money. He requested money for the downtown detoxification facility.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A075-091.)

ITEM-PC-4:

Comments by Jim Varnadore on the \$5M case in Denver which was approved by the Denver City Council and that San Diego doesn't have to deal with the Miramar-Manchester International Airport because Miramar was not on the closure list.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A093-114.)

ITEM-PC-5:

Comments by Mike Pallamary supporting Deputy Mayor Vargas' efforts on the paramedics issue to have the firefighters perform paramedic services.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: A124-128.)

COUNCIL COMMENT:

ITEM-CC-1:

Comments by Mayor Golding regarding:

A. City and health care. In the State of California the counties are charged with the provision of health care for the indigent and that the City of San Diego has no staff that relate to health care nor is the City funded for health care from the State of California or the Federal government; it is not a question of passing the buck, rather that we are not the agency that does that unless we become a joint City and County.

B. American Medical Services. As a result of the discussion in Closed Session, the Council has directed the City Manager to convene an investigation on whether AMS is in material breach of its contract of public health and safety. The City Manager was also directed that determination of fact will be done through the County Medical Director and the panel that the City Manager has proposed to put together. The City Manager will expedite the discussions to phase out of the contract as soon as possible. The City Manager has been directed to develop an emergency transition plan for the Fire Department to provide paramedic services during this period. The City must make sure that it acts expeditiously to ensure that the public's health and safety is guarded.

In response to Deputy Mayor Vargas' statement that an emergency does exist and that the City should take more action today, Mayor Golding stated that the first concern is protecting the public's health and safety, ensuring the level of service that the public will receive will be provided, and that when this function is transferred to the Fire Department that the Fire Department will be able to provide the required level of service.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A115-200.)

ITEM-CC-2:

Council Member Stevens stated that he is not ready to decide a state of emergency exists with respect to AMS. He also reiterated that the County Health Director will determine if there is a breach of contract.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A177-201.)

ITEM-CC-3:

Council Member Harvey announced that it was learned today that the BRAC process will generate approximately 1,700 new jobs in San Diego. He commended Mayor Golding for her involvement, and the Chamber of Commerce for a job well done.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Tape location: A202-228.)

ITEM-132:

SUBJECT: Two actions related to Participation Agreement for the Design and Construction of Phase II Water Main Improvements in Tierrasanta Norte.

(Tierrasanta Community Area. District-7.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-95-1206) ADOPTED AS RESOLUTION R-285412

Authorizing a Participation Agreement with Tierrasanta L-L Partnership, for the design, construction and reimbursement of Phase II Water Main Improvements;

Authorizing the expenditure of not to exceed \$448,035 from Water Revenue Fund No. 41500, Water System Construction Program, Tierrasanta Pressure Zone Improvements, CIP-73-300.0;

Authorizing the City Manager to finance and refinance this agreement with tax exempt securities, if circumstances so warrant.

Subitem-B: (R-95-1207) ADOPTED AS RESOLUTION R-285413

Certifying that the information contained in Environmental Impact Report EIR-91-0264, has been completed in compliance with the California Environmental Quality Act of 1970, as amended, and State guidelines, that the Declaration reflects the independent judgment of the City as Lead Agency, and that the Declaration has been reviewed and considered by the Council;

Adopting the Mitigation, Monitoring and Reporting Program, or alterations to implement the changes to the project as required in order to mitigate or avoid significant effects on the environment.

CITY MANAGER SUPPORTING INFORMATION:

As a condition of Subdivision Board Resolution No. 5450, dated

June 5, 1989, Tentative Map TM-89-0396, Tierrasanta L-L Partnership was required to make improvements to the Tierrasanta Pressure Zone. The developer prepared a study which analyzed alternatives for the Phase II improvements. The Water Utilities Department and Tierrasanta L-L Partnership have agreed the best alternative is the installation of approximately 2,800 feet of 16-inch diameter water main. The Phase II Improvements are needed to upgrade existing water systems to provide sufficient redundancy for the existing area. The facilities will benefit the City as a whole. After City acceptance of the water main, the City will reimburse the developer for the actual cost to design and construct the Phase II improvements.

Aud. Cert. 9500851.

WU-U-95-102.

FILE LOCATION: WATER - Phase II Water Main Improvements in
Tierrasanta Norte CONFY95-1

COUNCIL ACTION: (Tape location: A228-237.)

MOTION BY McCARTY TO ADOPT THE RESOLUTIONS WITH THE INCORPORATION OF THE CONDITIONS FOR RIGHT-OF-ENTRY AS OUTLINED IN THE MEMO DATED FEBRUARY 15, 1995, FROM THE FORMER OPEN SPACE INSPECTOR FOR TIERRASANTA. Second by Warden. Passed by the following vote: Mathis-not present, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-330:

SUBJECT: Two actions related to the North Mission Valley
Interceptor Sewer - Phase II.

(See City Manager Report CMR-95-40. Mission Valley
Community Area. District-6.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-95-1166) ADOPTED AS RESOLUTION R-285414

FINDINGS MUST BE MADE AS PART OF COUNCIL ADOPTION
Determining and declaring that the public interest,
convenience and necessity of the City of San Diego
require the construction, operation and maintenance of

the North Mission Valley Interceptor Sewer - Phase II Project (NMVIS2), to provide additional sewer capacity and relief for the existing lines, and to enable the City to provide for ultimate sewage conveyance needs for the northeastern communities of the City of San Diego (Kearny Mesa, Clairemont Mesa, Tierrasanta, San Carlos, Navajo, Linda Vista, College Area and Mission Valley) and several cities in eastern San Diego County (Santee, El Cajon, La Mesa and Alpine); that the public sewer will require the acquisition of permanent sewer easements and temporary construction easements over, under, along and across portions of Pueblo Lots 1103, 1104 and 1105, in the City of San Diego, and that the public interest, convenience and necessity demand the acquisition; that the proposed project is planned in a manner that will be most compatible with the greatest public good and the least private injury; declaring the intention of the City of San Diego to acquire the easements under eminent domain proceedings; and directing the City Attorney to commence an action in the Superior Court of the State of California, in and for the County of San Diego, for the purpose of condemning and acquiring immediate possession of the easements.

Subitem-B: (R-95-1167) ADOPTED AS RESOLUTION R-285415

Authorizing the transfer of an amount not to exceed \$350,000 within the Annual Allocation for Sewer Mains, CIP-44-001, Sewer Revenue Fund 41506, to CIP-46-140.0, the North Mission Valley Interceptor Sewer - Phase II;

Authorizing the expenditure of not to exceed \$350,000 from Fund 41506, Organization 384, Object Account 4640, Job Order 172716, CIP-46-140.0, Sewer Revenue Fund 41506, for costs related to condemnation of permanent sewer easements and temporary construction easements in connection with the North Mission Valley Interceptor Sewer - Phase II Project.

Aud. Cert. 9500820.

FILE LOCATION: WATER - North Mission Valley Interceptor
Sewer - Phase II
JUDGEMENT OF CONDEMNATION F-7275 AND
F-7276

COUNCIL ACTION: (Tape location: A293-417.)

Hearing began at 2:37 p.m. and halted at 2:45 p.m.

Testimony in opposition by Craig Beam.

MOTION BY STALLINGS TO ADOPT THE RESOLUTIONS WITH DIRECTION TO THE CITY MANAGER TO CONTINUE NEGOTIATION TO AVOID LITIGATION. Second by Harvey. Passed by the following vote: Mathis-not present, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-not present, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-331:

SUBJECT: Matter of proposed amendments to the Pacific Beach Community Plan, the Progress Guide and General Plan and Local Coastal Program Land Use Plan Update and Rezoning of various properties from the C, CA and R-400 zones to the CV, C-1, and RV Zones.

(Pacific Beach Community Plan. Districts-2 and 6.)

CITY MANAGER'S RECOMMENDATION:

Adopt Subitems A and C and introduce Subitem B.

Subitem-A: (R-95-1131 Cor. 2/23/95) ADOPTED AS RESOLUTION
R-285416

Stating for the record that information contained in Environmental Impact Report DEP-92-0199, including any comments received during the public review process, if any, has been reviewed and considered by Council for the City as Lead Agency concerning the Pacific Beach Community Plan and Local Coastal Program Land Use Plan Update.

Subitem-B: (O-95-86) INTRODUCED, TO BE ADOPTED ON MARCH 20,
1995

Introduction of an Ordinance rezoning various properties from the C, CA, and R-400 zones to the CV, C-1, and RV zones.

Subitem-C: (R-95-1130) ADOPTED AS RESOLUTION R-285417

Adoption of a Resolution amending the Pacific Beach Community Plan and Local Coastal Program.

OTHER RECOMMENDATIONS:

The Pacific Beach Community Planning Group voted to support the amendments on October 26, 1994.

SUPPORTING INFORMATION:

The Pacific Beach Community Plan and Local Coastal Program Land Use Plan (LCP), a comprehensive revision of the 1983 Pacific Beach Community Plan and LCP, was adopted by the San Diego City Council on March 29, 1994, Item 332. Various rezonings were also approved. Portions of the community are within the coastal zone. Certification of the plan and rezones by the California Coastal Commission is needed before the plan and new zones can become effective in the coastal zone. The following amendments are proposed to gain certification:

1. Redesignation of two blocks along East Mission Bay Drive to Visitor Commercial.
2. Requiring visitor-serving commercial uses for properties fronting on Mission Boulevard from approximately Diamond Street to Chalcedony, and those properties between the Pacific Ocean and the first alleyway.
3. Adding corrections and revisions to require construction mitigation, delete the Frost property from the community boundary, specifying the width of the buffer between development and the Northern Wildlife Preserve, adding two access points to the ocean, prohibiting cantilevered parking from Crystal Pier, and clarifying that future ordinance changes will require public review and Coastal Commission certification.
4. Consideration of the following rezones:
 - a. Portions of the East Mission Bay Drive commercial area from the residential (R-400), and area shopping center (CA) zones to the commercial (C-1) zone;
 - b. Portions of the East Mission Bay Drive commercial area from the residential (R-400) and area shopping center (CA) zones to the visitor commercial (CV) zone.
 - c. Properties in the Mission Boulevard commercial area generally north of Emerald Street, with frontage on Mission Boulevard and between the Pacific Ocean and the first alley, from the commercial office (CO) zone to the visitor commercial (CV) zone.
 - d. Properties in the Mission Boulevard commercial area generally north of Emerald Street between the properties fronting on Mission Boulevard and the first alley west of the Pacific Ocean, from the commercial office (CO) zone to the residential visitor (RV) zone.
 - e. Portions of the commercial area on both sides of Mission

Boulevard south of Diamond Street from the commercial (C) zone to the visitor commercial (CV) zone.

FILE LOCATION: Subitem-A,C: LAND - Pacific Beach Community Plan; Subitem-B: NONE

COUNCIL ACTION (Tape location: A250-277.)

Hearing began at 2:33 p.m. and halted at 2:35 p.m.

MOTION BY WARDEN TO ADOPT ITEM-331 AND -332. Second by Kehoe. Passed by the following vote: Mathis-not present, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

ITEM-332:

SUBJECT: Four actions related to Street Vacation of Rattler Way, Parcel Map W.O. No. 95-008 (Gen-Probe), Amended Subdivision Agreement, and Street Name Changes.

(Mira Mesa Community Area. District-5.)

CITY MANAGER'S RECOMMENDATION:

Adopt the following resolutions:

Subitem-A: (R-95-1098) ADOPTED AS RESOLUTION R-285418

Vacating Rattler Way between Top Gun Street and Steadman Street, in connection with the lot line adjustment Parcel Map for Lots 25 through 38 of Lusk Mira Mesa Business Park East II Unit No. 2, Map-12685.

Subitem-B: (R-95-1095) ADOPTED AS RESOLUTION R-285419

Approving Parcel Map PM-95-008 of Lots 25 through 38 of Lusk Mira Mesa Business Park East II, Unit No. 2, Map-12685.

Subitem-C: (R-95-1096 Cor.Copy) ADOPTED AS RESOLUTION R-285420

Authorizing an amendment to the Subdivision Improvement Agreement for Lusk Mira Mesa Business Park East II, Unit No. 2, and authorizing a second Subdivision Improvement Agreement for reparcelization of a portion of Lusk Mira Mesa Business Park East II, Unit No. 2, to

provide for the separation of the public improvements of Lusk-Smith/Mira Mesa North, the subdivider;

Declaring that the public improvements to be constructed pursuant to the subdivision agreement shall be completed by February 28, 1997;

Accepting Performance Bond No. SC11132799401, issued by The American Insurance Company, in the amount of \$2,742,389, as surety for the required improvements in the subdivision.

Subitem-D: (R-95-1097) ADOPTED AS RESOLUTION R-285421

Changing the name of Top Gun Street between Mira Mesa Boulevard and Flanders Drive to Sequence Drive;

Changing the name of Steadman Street between Mira Mesa Boulevard and Sequence Drive to Genetic Center Drive.

CITY MANAGER SUPPORTING INFORMATION:

The project has been requested by the property owner to accommodate the future development of Lots 25 through 38 of Lusk Mira Mesa Business Park East II, Unit No. 2, Map-12685. The project includes the vacation of Rattler Way between Top Gun Street and Steadman Street, the renaming of Top Gun Street to Sequence Drive, the renaming of Steadman Street to Genetic Center Drive, the reparcelization and consolidation of 14 lots into nine parcels, and an amendment to the subdivision agreement for Lusk Mira Mesa Business Park East II, Unit 2. The subject proposals are located in the Mira Mesa Community Plan Area and situated in the M1-A, M1-B, and Coastal Zones. The vacation totals approximately 1.8 acres and would increase the developable area to a total of 41.9 acres. Development of the subject area is subject to the conditions of approval per PID-86-0975 and CDP-94-0661. The vacation was approved unanimously by the Mira Mesa Community Planning Board on January 16, 1995. The area-of-vacation is only rough graded and contains drainage facilities which are to be relocated when the adjoining future parcels are developed. The street is not required for access, since the proposed parcels will obtain access from future adjacent streets and private driveways. Staff review has indicated that the four required findings for vacation can be made. The City entered into a subdivision improvement agreement with Lusk-Smith/Mira Mesa North, a Limited Partnership, on August 6, 1990, for the construction of public improvements for Lusk Mira Mesa Business Park East II, Unit 2 (Document No. RR-276284), which expires on August 21, 1995. A portion of this property is being conveyed to a new party. The original subdivider would

like to separate the public improvements so that the responsibilities of the new party are clearly defined with Lusk remaining as the responsible party for both new subdivision agreements. Staff recommends approval of all of the subject actions.

FILE LOCATION: Subitem-A: DEED F-6445 STRT J-2819;
Subitem-B,C: SUBD - Lusk Mira Mesa Business
Park East II, Unit No. 2; Subitem-D: DEED
F-6446 CONTFY95-1 DEEDFY95-2

COUNCIL ACTION: (Tape location: A250-277.)

Hearing began at 2:33 p.m. and halted at 2:35 p.m.

MOTION BY WARDEN TO ADOPT ITEM-331 AND -332. Second by Kehoe. Passed by the following vote: Mathis-not present, Harvey-yea, Kehoe-yea, Stevens-yea, Warden-yea, Stallings-yea, McCarty-yea, Vargas-yea, Mayor Golding-yea.

NON-DOCKET ITEMS:

None.

ITEM-CS-1: (R-95-1282) ADOPTED AS RESOLUTION R-285422

A Resolution adopted by the City Council in Closed Session on Tuesday, February 28, 1995:

Authorizing the City Manager to pay the sum of \$37,000.00 in settlement of each and every claim against the City of San Diego, its agents and employees, Superior Court Case 679168, O&B Matthews Construction Co., Inc., v. City of San Diego, resulting from extra-work costs that were not included in the contract; authorizing the City Auditor and Comptroller to issue one check in the amount of \$37,000.00 made payable to O&B Matthews Construction Co., Inc., and Timothy J. Sullivan in full settlement of all claims.

Aud.Cert. 9500891.

FILE LOCATION: MEET

ADJOURNMENT:

The meeting was adjourned by Mayor Golding at 3:40 p.m. in honor of the memory of Chester C. Crill as requested by Council Member Harvey, and Charles E. Reid as requested by Council Member Stevens.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Tape location: B645).